

110TH CONGRESS
2D SESSION

H. R. 6688

To amend section 5313 of title 31, United States Code, to reform certain requirements for reporting cash transactions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2008

Mr. FOSTER (for himself, Mr. FRANK of Massachusetts, and Mr. MOORE of Kansas) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend section 5313 of title 31, United States Code, to reform certain requirements for reporting cash transactions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Seasoned Customer
5 CTR Exemption Act of 2008”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

8 (1) When it is possible to reduce the regulatory
9 burden on depository institutions associated with re-

1 porting requirements under chapter 53 of title 31,
2 United States Code, while at the same time main-
3 taining the utility of such reports to law enforcement
4 efforts, it is appropriate to do so.

5 (2) In February 2008, the Comptroller General
6 issued a report titled “Bank Secrecy Act: Increased
7 Use of Exemption Provisions Could Reduce Cur-
8 rency Transaction Reporting While Maintaining
9 Usefulness to Law Enforcement Efforts” (GAO–08–
10 355).

11 (3) The Comptroller General finds that since
12 transactions of exempt customers are of little or no
13 value to law enforcement efforts, efforts made to in-
14 crease the use of such exemptions by depository in-
15 stitutions could reduce the regulatory burden associ-
16 ated with filing unnecessary cash transaction reports
17 and the government’s costs to process them, while
18 maintaining the utility of such reports to law en-
19 forcement efforts.

20 (4) The Comptroller General finds that the re-
21 quirement that depository institutions file biennial
22 renewals for Phase II customer exemptions dupli-
23 cates the required annual review of such exemptions
24 and discourages the use of some exemptions.

1 (5) The Comptroller General finds that elimi-
2 nating the requirement that depository institutions
3 file biennial renewals for Phase II customer exemp-
4 tions could increase the use of such exemptions and
5 reduce the burden associated with filing unnecessary
6 cash transaction reports.

7 (6) The Comptroller General recommends elimi-
8 nating the requirement that depository institutions
9 biennially renew Phase II exemptions.

10 (7) The Comptroller General finds that the cash
11 transactions of government entities and depository
12 institutions are likely of little or no use to law en-
13 forcement efforts and that cash transaction reports
14 related to these entities are unnecessary.

15 (8) The Comptroller General finds that, al-
16 though the amendments made to chapter 53 of title
17 31, United States Code, by the Money Laundering
18 Suppression Act of 1994 required the Secretary of
19 the Treasury to exempt depository institutions from
20 filing cash transaction reports on the transactions of
21 government entities and depository institutions and
22 did not explicitly require the filing of exemption
23 forms or annual review of such information with re-
24 spect to the exempt entities to effectuate any such
25 exemption, the regulations prescribed by the Sec-

1 retary nonetheless require depository institutions to
2 file such exemption forms and annual reviews.

3 (9) The Comptroller General finds that the re-
4 quirement that depository institutions file forms to
5 exempt government entities and depository institu-
6 tions, and conduct annual reviews of related infor-
7 mation, discourages the use of such exemptions and
8 creates cash transaction reports that are of little or
9 no value to law enforcement efforts.

10 (10) The Comptroller General recommends
11 eliminating the requirement that depository institu-
12 tions file exemption forms and annually review the
13 supporting information for government entities and
14 depository institutions.

15 (11) The Comptroller General finds that requir-
16 ing depository institutions to wait 12 months before
17 exempting certain customers with large numbers of
18 cash transactions may needlessly create cash trans-
19 action reports that are not highly useful to law en-
20 forcement efforts.

21 (12) The Comptroller General finds that allow-
22 ing depository institutions to exempt clients with fre-
23 quent cash transactions within a time period of less
24 than a year could avoid the filing of unnecessary
25 cash transaction reports.

1 (13) The Comptroller General recommends con-
2 sidering a change in requirements to allow deposi-
3 tory institutions to exempt otherwise-eligible cus-
4 tomers with frequent large cash transactions within
5 a period of time shorter than 12 months.

6 **SEC. 3. EXCEPTION FROM CURRENCY TRANSACTION RE-**
7 **PORTS FOR SEASONED CUSTOMERS.**

8 Section 5313(e) of title 31, United States Code, is
9 amended to read as follows:

10 “(e) QUALIFIED CUSTOMER EXEMPTION.—

11 “(1) IN GENERAL.—Before the end of the 270-
12 day period beginning on the date of the enactment
13 of the Seasoned Customer CTR Exemption Act of
14 2008, the Secretary of the Treasury shall prescribe
15 regulations that exempt any depository institution
16 from filing a report pursuant to this section after
17 the effective date of such regulations in connection
18 with a transaction for the payment, receipt, or
19 transfer of United States coins or currency (or other
20 monetary instruments the Secretary of the Treasury
21 prescribes) with a qualified customer of the deposi-
22 tory institution.

23 “(2) QUALIFIED CUSTOMER DEFINED.—For
24 purposes of this section, the term ‘qualified cus-
25 tomer’, with respect to a depository institution, has

1 such meaning as the Secretary of the Treasury shall
2 prescribe, which shall include any person that—

3 “(A) is incorporated or organized under
4 the laws of the United States or any State, in-
5 cluding a sole proprietorship (as defined in 31
6 CFR 103.22(d)(6)(vii), as in effect on January
7 4, 2007), or is registered as and eligible to do
8 business within the United States or a State;
9 and

10 “(B) has maintained a deposit account
11 with the depository institution for at least 2
12 months, or has engaged, using such an account,
13 in multiple currency transactions that are sub-
14 ject to the reporting requirements of subsection
15 (a).

16 “(3) REGULATIONS.—

17 “(A) IN GENERAL.—The Secretary of the
18 Treasury shall prescribe regulations requiring a
19 depository institution to file a 1-time notice of
20 designation of exemption for each qualified cus-
21 tomer of the depository institution.

22 “(B) FORM AND CONTENT OF EXEMPTION
23 NOTICE.—The Secretary shall by regulation
24 prescribe the form, manner, content, and timing
25 of the qualified customer exemption notice and

such notice shall include information sufficient to identify the qualified customer and the accounts of the customer.

“(C) AUTHORITY OF SECRETARY.—

“(i) IN GENERAL.—The Secretary may suspend, reject, or revoke any qualified customer exemption notice, in accordance with criteria prescribed by the Secretary by regulation.

“(ii) CONDITIONS.—The Secretary may establish conditions, in accordance with criteria prescribed by regulation, under which exempt qualified customers of an insured depository institution that is merged with or acquired by another insured depository institution will continue to be treated as designated exempt qualified customers of the surviving or acquiring institution.”.

SEC. 4. EXCEPTION FROM CURRENCY TRANSACTION REPORTS FOR GOVERNMENT ENTITIES, DEPOSITORY INSTITUTIONS, AND CERTAIN OTHER FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Section 5313(d) of title 31, United States Code, is amended to read as follows:

1 “(d) MANDATORY EXEMPTIONS FROM REPORTING
2 REQUIREMENTS.—

3 “(1) IN GENERAL.—Upon enactment of the
4 Seasoned Customer CTR Exemption Act of 2008,
5 the Secretary of the Treasury shall exempt, pursu-
6 ant to section 5318(a)(6), a depository institution
7 from the reporting requirements of subsection (a),
8 without requiring the depository institution to file a
9 notice of designation of exemption or to annually re-
10 view the information supporting the exemption, with
11 respect to transactions between the depository insti-
12 tution and the following categories of entities:

13 “(A) Another depository institution.

14 “(B) A department or agency of the
15 United States, any State, or any political sub-
16 division of any State.

17 “(C) Any entity established under the laws
18 of the United States, any State, or any political
19 subdivision of any State, or under an interstate
20 compact between 2 or more States, which exer-
21 cises governmental authority on behalf of the
22 United States, the State, or the political sub-
23 division.

24 “(D) Any entity, other than a bank, whose
25 common stock or analogous equity interests are

1 listed on the New York Stock Exchange or the
2 American Stock Exchange or whose common
3 stock or analogous equity interests have been
4 designated as a Nasdaq National Market Secu-
5 rity listed on the Nasdaq Stock Market (except
6 stocks or interests listed under the separate
7 ‘Nasdaq Small-Cap Issues’ heading), except
8 that, for purposes of this subparagraph, a per-
9 son that is a financial institution, other than a
10 bank, is an exempt person only to the extent of
11 such institution’s domestic operations.

12 “(E) Any subsidiary, other than a bank, of
13 any entity described in subparagraph (D) that
14 is organized under the laws of the United
15 States or of any State and at least 51 percent
16 of whose common stock or analogous equity in-
17 terest is owned by the listed entity, except that,
18 for purposes of this subparagraph, a person
19 that is a financial institution, other than a
20 bank, is an exempt person only to the extent of
21 such institution’s domestic operations.

22 “(F) Any business or category of business
23 the reports on which have little or no value for
24 law enforcement purposes.

1 “(2) NOTICE OF EXEMPTION.—The Secretary
2 of the Treasury shall publish in the Federal Register
3 at such times as the Secretary determines to be ap-
4 propriate (but not less frequently than once each
5 year) a list of all the entities whose transactions
6 with a depository institution are exempt under this
7 subsection from the reporting requirements of sub-
8 section (a).”.

9 (b) ELECTION TO REPORT NOTWITHSTANDING EX-
10 EMPTION.—Section 5313(f) of title 31, United States
11 Code, is amended by adding at the end the following new
12 paragraph:

13 “(3) DEPOSITORY INSTITUTION ELECTIONS.—A
14 depository institution may elect to report a trans-
15 action that would otherwise qualify for an exemption
16 under subsection (d) or (e), and a depository institu-
17 tion that makes such an election shall not be subject
18 to any penalty, liability, enforcement remedy, or su-
19 pervisory criticism for such reporting.”.

20 (c) TECHNICAL AND CONFORMING AMENDMENT.—
21 The heading for subsection (f) of section 5313 of title,
22 United States Code, is amended by striking “MANDATORY
23 AND DISCRETIONARY”.

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